

Senate Bill 80

By: Senators Bulloch of the 11th, Crosby of the 13th, Hooks of the 14th, Tolleson of the 20th, Hudgens of the 47th and others

**AS PASSED**

**AN ACT**

To amend Article 2 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to adulteration and misbranding of food, so as to change certain provisions relating to prohibited acts; to provide requirements for testing of samples or specimens of foods and ingredients of food processing plants for the presence of poisonous or deleterious substances or other contaminants; to provide for food safety plans; to provide for reports and records; to provide for rules and regulations; to change certain provisions relating to right of entry in food establishments and transport vehicles and examination of samples obtained; to provide for inspections; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Article 2 of Chapter 2 of Title 26 of the Official Code of Georgia Annotated, relating to adulteration and misbranding of food, is amended in Code Section 26-2-22, relating to prohibited acts, by adding a new paragraph to read as follows:

"(5.1) The failure to comply with testing, reporting, or record-keeping requirements provided by or pursuant to Code Section 26-2-27.1;"

**SECTION 2.**

Said article is further amended by adding a new Code section to read as follows:

"26-2-27.1.

(a) As used in this Code section, the term 'food processing plant' means a commercial operation that manufactures food for human consumption and does not provide food directly to a consumer from that location. Such term shall not include a commercial operation that produces raw agricultural commodities and whose end product remains a raw agricultural product.

(b)(1)(A) In order to protect the public health, safety, and welfare and ensure compliance with this article, the Commissioner shall by rule or regulation establish requirements for regular testing of samples or specimens of foods and ingredients by food processing plants for the presence of poisonous or deleterious substances or other contaminants rendering such foods or ingredients injurious to health. Such rules or regulations shall identify the specific classes or types of food processing plants, foods, ingredients, and poisonous or deleterious substances or other contaminants that shall be subject to such testing requirements and the frequency with which such tests shall be performed by food processing plants.

(B) The Commissioner shall also promulgate rules and regulations establishing minimum standards and requirements for a written food safety plan, such as a hazard analysis critical control point plan, that may be submitted by an operator of a food processing plant to document and describe the procedures used at such plant to prevent the presence of hazards such as poisonous or deleterious substances or other contaminants that would render finished foods or finished ingredients as manufactured at such plant injurious to health, including preventive controls, monitoring to ensure the effectiveness of such controls, and records of corrective actions, including actions taken in response to the presence of known hazards. If an operator of a food processing plant, in its discretion, submits to the department a written food safety plan for such plant and such plan conforms to rules and regulations promulgated for purposes of this subparagraph, then such food processing plant shall comply with the requirements of such written food safety plan, including but not limited to any test regimen provided by such plan, in lieu of complying with a test regimen established by rules or regulations promulgated by the Commissioner pursuant to subparagraph (A) of this paragraph.

(2) In addition to any regular tests required pursuant to paragraph (1) of this subsection, the Commissioner may order any food processing plant to have samples or specimens of its foods and ingredients tested for the presence of any poisonous or deleterious substances or other contaminants whenever in his or her determination there are reasonable grounds to suspect that such foods or ingredients may be injurious to health.

(c) Any food processing plant subject to any testing requirements pursuant to this Code section shall cause such required tests to be performed in accordance with testing standards and procedures established by rules and regulations of the Commissioner. Testing standards and procedures established by the Commissioner under this paragraph shall be consistent with standards presented in the federal Food and Drug Administration's Bacterial Analytical Manual and standards developed by the Association of Analytical Communities

International, International Organization for Standardization, or another internationally recognized certification body.

(d) A food processing plant shall be responsible for the cost of any testing required pursuant to this Code section and may conduct such testing either internally or via a third party, provided that subsection (c) of this Code section applies in either case.

(e) Whenever any person or firm that operates a food processing plant in this state obtains information from testing of samples or specimens of finished foods or finished food ingredients as manufactured at such food processing plant which, based on a confirmed positive test result, indicates the presence of a substance that would cause a manufactured food bearing or containing the same to be adulterated within the meaning of paragraph (1) of Code Section 26-2-26, such person or firm shall report such test result to the department within 24 hours after obtaining such information.

(f) Records of the results of any tests required pursuant to this Code section shall be kept by a food processing plant and made available to the department for inspection for a period of not less than two years from the date the results were reported by the laboratory.

(g) This Code section shall not apply to any food processing plant operating under a federal grant of inspection from the United States Department of Agriculture Food Safety and Inspection Service."

### **SECTION 3.**

Said article is further amended by revising Code Section 26-2-36, relating to right of entry in food establishments and transport vehicles and examination of samples obtained, as follows:

"26-2-36.

(a) The Commissioner or his duly authorized agent shall have free access during all hours of operation and at all other reasonable hours to any factory, warehouse, or establishment in which food is manufactured, processed, packed, or held for introduction into commerce and any vehicle being used to transport or hold such foods to commerce for the purposes:

(1) Of inspecting such factory, warehouse, establishment, or vehicle, any records of pathogen destruction, and any records of testing of samples or specimens of foods or ingredients for the presence of poisonous or deleterious substances or other contaminants and the results thereof as may be required pursuant to Code Section 26-2-27.1, to determine if any of the provisions of this article are being violated; and

(2) Of securing samples or specimens of any food, after paying or offering to pay for such sample.

(b) It shall be the duty of the Commissioner to make or cause to be made examinations of samples secured under subsection (a) of this Code section to determine whether or not this article is being violated."

#### **SECTION 4.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

#### **SECTION 5.**

All laws and parts of laws in conflict with this Act are repealed.